

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

TOMMIE SLACK,

Plaintiff,

V.

WASHINGTON DEPARTMENT OF
CORRECTION CARE REVIEW
COMMITTEE, et al.,

Defendants.

Case No. C19-5557 BHS-TLF

ORDER DIRECTING PLAINTIFF TO
IDENTIFY THE OPERATIVE
COMPLAINT

On October 4, 2019 the Court directed the operative complaint (Dkt. 9) to be served on the named defendants. Dkt. 13. On November 12, 2019 plaintiff filed a “notice” informing the Court that the amended complaint attached to the summons (Dkt. 7) was not served on the

1 defendants named in that attachment. Dkt. 30. Plaintiff further asks the Court to serve both the
2 amended complaint attached to the proposed summons (Dkt. 7) and the amended complaint filed
3 on August 30, 2019 (Dkt. 9).

4 There can only be one operative complaint in a matter and the Court will not allow
5 combinations of various documents and attachments to make one operative complaint. Further,
6 when an amended complaint is filed, it operates as a complete substitution for the previously
7 filed complaint. *See Ferdik v. Bonzelet*, 963 F.2d 1258, 1262 (9th Cir. 1992). Additionally, all
8 causes of actions that are alleged in a pleading and not alleged in the subsequent amended
9 pleading are deemed waived. *Forsyth v. Humana, Inc.*, 114 F.3d 1467, 1474 (9th Cir. 1997),
10 *overruled in part on other grounds*, *Lacey v. Maricopa Cnty.*, 693 F.3d 896 (9th Cir. 2012). It is
11 unclear from the plaintiff's pleadings which complaint he intends to be the operative complaint.

12 Accordingly, it is hereby ORDERED that:

13 (1) Plaintiff file a notice to the Court on or before **December 13, 2019**, identifying
14 which complaint filed in this action he wishes to pursue as the operative
15 complaint.

16 (2) Alternatively, on or before **December 13, 2019**, plaintiff may file an amended
17 complaint including all facts, claims and defendants that he is seeking to include
18 in his amended complaint. Any amended complaint must include all facts, claims
19 and defendants, and cannot simply incorporate by reference parts of the previous
20 pleadings. Any amended complaint must comply with LCR 15.

21 (3) Any future amended complaints, after the amended complaint authorized in this
22 order, must comply with the procedures set out in Federal Rule of Civil Procedure
23 15(a)(2).

(4) Failure to respond to this order may result in dismissal of the complaint for failure to prosecute and failure to comply with a court order.

(5) The Clerk is directed to send a copy of this order to plaintiff and defendants.

Dated this 15th day of November, 2019.

Theresa L. Fricke

Theresa L. Fricke
United States Magistrate Judge